

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES. See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24.

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AUG 14 2009
COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

THE STATE OF ARIZONA,)	
)	
Appellee,)	2 CA-CR 2008-0344
)	DEPARTMENT A
v.)	<u>MEMORANDUM DECISION</u>
)	Not for Publication
MARYANN SINCLAIR,)	Rule 111, Rules of
)	the Supreme Court
Appellant.)	
_____)	

APPEAL FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. CR-20071487

Honorable Richard S. Fields, Judge

AFFIRMED

Law Office of David Alan Darby, Esq.
By David Alan Darby

Tucson
Attorney for Appellant

H O W A R D, Chief Judge.

¶1 Appellant Maryann Sinclair was charged with theft of a means of transportation, possession of burglary tools, and forgery. A jury found her guilty of all charges. The trial court suspended the imposition of sentence and ordered Sinclair to serve concurrent terms of probation, the longest of which was five years, and ordered her to pay restitution. Counsel has filed a brief in compliance with *Smith v. Robbins*, 528 U.S. 259

(2000); *Anders v. California*, 386 U.S. 738 (1967); *State v. Leon*, 104 Ariz. 297, 451 P.2d 878 (1969); and *State v. Clark*, 196 Ariz. 530, 2 P.3d 89 (App. 1999). Sinclair has not filed a supplemental brief.

¶2 As requested, we have reviewed the record for fundamental, prejudicial error, but we have found none. The record contains sufficient evidence to support the convictions. Viewed in the light most favorable to sustaining the verdicts, *see State v. Cox*, 217 Ariz. 353, ¶ 22, 174 P.3d 265, 269 (2007), the evidence established that Sinclair attempted to register a stolen 1996 Honda Civic with the Motor Vehicle Division of the Arizona Department of Transportation by using a title with a forged owner signature and notarization. The title of the vehicle had been in the glove box when the car was stolen. The victim denied the signature on it was hers. Moreover, her name was misspelled and the notarization was illegible; the notary stamp was light. Additionally, it appeared as though the owner's signature had been written twice, one signature over another, as though, according to the state's witness, it had been "traced over." The key Sinclair had for the vehicle did not work on any of the doors or the ignition. Questioned by another officer, Sinclair admitted having to "wiggle" and "jiggle" the key to start the car. The officer testified the key was a "jiggle key," which is used to steal cars.

¶3 The evidence also established that Sinclair had been a notary under her former last name of Liechliter, and although she claimed she had lost her notary stamp, the stamp on the title appeared to have the letters C-H-L-I-T-E-R where the notary's name would have been. Sinclair told the officer the title had already been notarized when she received it. In a previous investigation of a possible stolen car, Sinclair had also been in possession of a title

to a vehicle that had been notarized with her former name with a few letters missing. Based on the evidence presented, reasonable jurors could reject Sinclair’s defense that she had had no idea the car was stolen when she purchased it and, instead, found her guilty of the charged offenses.

¶4 Counsel asks summarily that we consider as a “colorable issue[]” whether “[t]he trial court erred by allowing [evidence under Rule] 404(b)[, Ariz. R. Evid.] . . . at trial,” by which he presumably means the evidence regarding Sinclair’s role in the incident involving the other stolen vehicle and the notarization involved. But the trial court did not abuse its discretion by admitting the evidence over Sinclair’s objection. *See State v. Van Adams*, 194 Ariz. 408, ¶ 20, 984 P.2d 16, 23 (1999) (appellate court reviews trial court’s decision to admit evidence under Rule 404(b) for abuse of discretion). The evidence was properly admitted to refute Sinclair’s defenses of mistake or lack of knowledge and to establish intent, modus operandi, or knowledge or absence of mistake, accident, or coincidence exceptions under Rule 404(b), which generally preclude the admission of evidence of other acts.

¶5 The convictions and the probationary terms are affirmed.

JOSEPH W. HOWARD, Chief Judge

CONCURRING:

PHILIP G. ESPINOSA, Presiding Judge

JOHN PELANDER, Judge